

AMENDMENT NO. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 653*

House Bill No. 952

by deleting all language after the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 62-19-106(e), is amended by deleting the second sentence of the subsection in its entirety and by substituting instead the following:

This provision shall apply only to those licenses that receive their license after January 1, 1985. Any licensee who reaches sixty (60) years of age and has been licensed for at least ten (10) years is exempt from continuing education requirements.

Section 2. Tennessee Code Annotated, Section 62-19-111(h)(1), is amended by adding the following as new appropriately designated subdivisions:

() Any person in this state who, for a fee, is in the business of managing auctions to the extent that such person is responsible for the advertising, consignments, promotion, and/or distribution of funds, must hold a valid firm license.

() All contracts for services to be performed by an auction firm must be negotiated for and signed by an auctioneer who is a member of the firm.

Section 3. Tennessee Code Annotated, Section 62-19-111, is amended by adding the following as a new appropriately designated subsection:

(c) The commission may deny any applicant for an apprentice, auctioneer, or firm license the right to take an examination for a period up to two (2) years if such applicant is found by the commission to have conducted business within this state as an apprentice, auctioneer, or firm without first having been properly licensed.

Section 4. Tennessee Code Annotated, Section 62-19-116(l)(1)(C), is amended by adding the following at the end of the subdivision:

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The investigator shall carry an identification badge issued by the department of commerce and insurance and shall have the authority to make investigations concerning the enforcement of the laws, rules, and policies promulgated under this chapter. The investigator shall have the authority to issue citations for violations of this chapter as identified by the rules of the commission with the appropriate fine. The investigator shall have the authority to stop any auction activity that is being promoted, managed or supervised by unlicensed individuals in violation of this chapter.

Section 5. Tennessee Code Annotated, Title 62, Chapter 19, Part 1, is amended by adding the following new section:

62-19-125. Citations for violations – (a)(1) The director and the investigator, acting on behalf of the commission, is authorized to issue citations against persons acting in the capacity of engaging in the auction business without a license in violation of this chapter.

(2) Each citation shall be in writing and shall describe with specificity the basis of each citation.

(3) Each citation shall contain an order to cease all violations of this chapter and an assessment of a civil penalty in an amount of not less than fifty dollars (\$50) and not greater than two thousand five hundred dollars (\$2,500) for each violation.

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(b) The commission shall promulgate rules and regulations to specify conditions for which a citation may be issued, and the range of penalties for violations of this chapter.

(c) Service of a citation issued pursuant to this section may be made in person or by certified mail at the last known business address or residence address of the person cited.

(d) A citation issued pursuant to this section shall be issued by the director or investigator within one (1) year after the act or omission which is the basis for the citation.

(e) Any person served with a citation pursuant to this section may appeal to the director by written notice postmarked within fifteen (15) working days after service of the citation with respect to violations alleged, scope of the order or amount of civil penalty assessed.

(f) If a person cited timely notifies the director that such person intends to contest the citation, the director shall afford an opportunity for a contested case hearing pursuant to the Uniform Administrative Procedures Act.

(g) After all administrative appeals have been exhausted, the director may apply to the appropriate court for a judgment in an amount of the civil penalty, plus applicable court costs, and for an order to cease activities in violation of this chapter. The motion for the order, which shall include a certified copy of the final order of the hearing officer

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or administrative judge, shall constitute a sufficient showing to warrant the issuance of the judgement and order.

(h) The commission may waive any portion of a civil penalty by stating the reasons for such waiver in the official minutes of the commission.

Section 6. Tennessee Code Annotated, Title 62, Chapter 19, Part 1, is amended by adding the following as a new section:

Section 62-19-126. Injunctions authorized for enforcement – In addition to the powers and duties otherwise conferred upon the commission herein, the commission is empowered to petition any circuit or chancery court having jurisdiction of any person in this state who is violating any of the provisions of this chapter, either with or without a license hereunder, to enjoin such person from continuing such violation, and jurisdiction is conferred upon the chancery and circuit courts of this state to hear and determine such causes.

Section 7. Tennessee Code Annotated, Title 62, Chapter 19, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section 62-19-1___. (a) The position of administrator of the Auctioneer Commission is herein upgraded to the position of administrative director, to better facilitate the execution of such administrator’s duties.

(b) There is herein created the position of administrative assistant regulatory board 2, to assist the administrative director in such director’s duties.

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(c) Funding to implement the provisions of this section shall not exceed sixty thousand dollars (\$60,000).

Section 8. This act shall take effect upon becoming a law, the public welfare requiring it.

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